

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FERRING PHARMACEUTICALS INC.,
REBIOTIX INC.

Plaintiffs,

v.

FINCH THERAPEUTICS GROUP, INC.,
FINCH THERAPEUTICS, INC., and FINCH
THERAPEUTICS HOLDINGS, LLC.

Defendants.

C.A. No. 21-1694-JLH

FINCH THERAPEUTICS GROUP, INC.,
FINCH THERAPEUTICS, INC., FINCH
THERAPEUTICS HOLDINGS, LLC, and
REGENTS OF THE UNIVERSITY OF
MINNESOTA

Counterclaim-Plaintiffs/Reply Defendants,

v.

FERRING PHARMACEUTICALS INC., and
REBIOTIX, INC.

Counterclaim-Defendants/Reply Plaintiffs.

**FERRING/REBIOTIX’S MOTION FOR LEAVE TO FILE
REPLY IN SUPPORT OF MOTION FOR RECONSIDERATION**

Plaintiffs/Counterclaim Defendants Ferring Pharmaceuticals Inc. and Rebiotix, Inc.

(collectively, “Ferring”) respectfully seek leave to file the accompanying two-page reply brief in support of their motion for reconsideration. Ferring appreciates the significant demands on the Court’s limited resources and did not lightly choose to file the motion for reconsideration; nor does it lightly seek leave to submit the proposed reply. As detailed therein, the proposed reply is

necessary to address arguments raised for the first time in the response of Finch Therapeutics Group, Inc., Finch Therapeutics, Inc., Finch Therapeutics Holdings, LLC, and the Regents of the University of Minnesota (collectively, “Finch/UMN”) to Ferring’s motion for reconsideration. Specifically, Finch/UMN raised a procedural argument that lacks merit, and Finch/UMN also raised a new claim construction argument regarding the scope of the claims that invites clear error. Resolution of the issues concerning Ferring’s summary judgment motion in accordance with controlling precedent demonstrates that the asserted claims of the Borody patents encompass compositions that do not have markedly different characteristics or significant utility beyond those found in the natural fecal bacteria of human stool. Thus, Ferring respectfully submits that good cause exists for granting this motion and seeks leave to submit the attached targeted, two-page reply brief.

As required by D. Del. LR 7.1.1, counsel for Ferring have met and conferred with counsel for Finch/UMN regarding the substance of this motion, and counsel for Finch/UMN have indicated that they oppose Ferring’s request.

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